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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,010	04/19/2001	Alexander Kobilansky	US010211	3720

24737 7590 06/02/2005

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EXAMINER

COUSO, YON JUNG

ART UNIT PAPER NUMBER

2625

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/838,010	KOBILANSKY, ALEXANDER	
	Examiner	Art Unit	
	Yon Couso	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's arguments with respect to claims 1-19 are have been considered but are moot in view of the new ground(s) of rejection.

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to the method of detecting a defect in an image, which in fact can be performed by a person examining an image and correcting the image.

Descriptive material that cannot exhibit any functional interrelationship with the way in which computing processes are performed does not constitute a statutory process, machine, manufacture or composition of matter and should be rejected under 35 U.S.C. 101. Thus, Office personnel should consider the claimed invention as a whole to determine whether the necessary functional interrelationship is provided.

Where certain types of descriptive material, such as music, literature, art, photographs and mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship, either as part of the stored data or as part of the computing processes performed by the computer, then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer. Such "descriptive material" is not a process, machine, manufacture or composition of matter. (Data consists of facts, which become information when they are seen in context and convey meaning to people. Computers process data without any understanding of what that data represents. Computer Dictionary 210 (Microsoft Press, 2d ed. 1994).)

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al (WO 99/14950) in view of Sycara et al (Patent No. 5,574,640).

As per claims 1, 11, and 18, Zhang teaches a method and a system and an article of manufacture for detecting a defect in an image, comprising the steps of: detecting a defect in the image (page 6, line 34-page 7, line 2); generating non-image data indicating properties of the image (page 7, lines 3-7); and providing the non-image data that repairs the image (page 7, lines 8-32). Zhang does not teach details on repairing the image by an interactive session. However, Sycara discloses repairing the defect by an interactive session, responsive to a user's request (column 2, lines 45-56). It would have been obvious to one of ordinary skills in the art, at the time the invention was made, to incorporate user interactive session taught in Sycara' teaching into Zheng's method of repairing the image because Zheng already discloses automatic detection and correction of defects. Mere incorporation of user interaction into the system which already teaches automatic detection and correction of defects is not deemed to be patentably significant because the system in Zheng already performs what is intended for a user.

As per claims 2, 12 and 13, Sycara teaches that the non-image data is employed to repair the defect in the interactive session (column 4, lines 1-65).

As per claims 3, 7, and 14, Zheng teaches that the non-image data includes motion estimation information for a sequence of images (page 7, lines 3-25).

As per claim 4, 8, and 15, Zheng teaches that the non-image data includes image granularity information (column 11, lines 19-61).

As per claims 5, 9, and 16, Zheng teaches that the non-image data includes an indication of a location and size of the defect (page 7, lines 26-32).

As per claims 6, 17, and 19, Zheng teaches a method and a system and an article of manufacture of repairing a defect in an image, comprising the steps of: receiving the defect (page 6, line 34-page 7, line 2); evaluating non-image data associated with the image indicating properties of the image that may be utilized to repair the defect (page 7, lines 3-7); and repairing the defect using indicated properties of the image (page 7, lines 8-32). Zheng does not teach details on a user identification of a defect in an image. Sycara discloses repairing the defect by an interactive session, responsive to a user's request (column 2, lines 45-56). It would have been obvious to one of ordinary skills in the art, at the time the invention was made, to incorporate user interactive session taught in Sycara' teaching into Zheng's method of repairing the image because Zheng already discloses automatic detection and correction of defects. Mere incorporation of user interaction into the system which already teaches automatic detection and correction of defects is not deemed to be patentably significant because the system in Zheng already performs what is intended for a user.

As per claim 10, Zheng teaches the step of analyzing the non-image data to determine an appropriate method for repairing the defect (page 7, line 33—page 8, line 2).

As per claim 20, Sycara discloses complementary to the providing step, the step of providing, to repair the defect and to the interactive session, a version of the automatically repaired without user intervention (column 5, line 36-column 6, line 4).

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4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

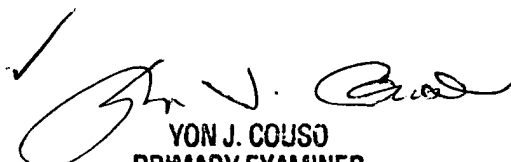
Jarrett is also cited.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yon Couso whose telephone number is (571) 272-7448. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta, can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YJC


YON J. COUSO
PRIMARY EXAMINER

May 31, 2005